

**§ 701.23 Purchase, sale, and pledge of eligible obligations.**

(a) For purposes of this section:

(1) *Eligible obligation* means a loan or group of loans.

(2) *Student loan* means a loan granted to finance the borrower's attendance at an institution of higher education or at a vocational school, which is secured by and on which payment of the outstanding principal and interest has been deferred in accordance with the insurance or guarantee of the Federal Government, of a State government, or any agency of either.

(b) *Purchase.* (1) A Federal credit union may purchase, in whole or in part, within the limitations of the board of directors' written purchase policies:

(i) Eligible obligations of its members, from any source, if either: (A) They are loans it is empowered to grant or (B) they are refinanced with the consent of the borrowers, within 60 days after they are purchased, so that they are loans it is empowered to grant;

(ii) Eligible obligations of a liquidating credit union's individual members, from the liquidating credit union;

(iii) Student loans, from any source, if the purchaser is granting student loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary market; and

(iv) Real estate-secured loans, from any source, if the purchaser is granting real estate-secured loans pursuant to § 701.21 on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. A pool must include a substantial portion of the credit union's members' loans and must be sold promptly.

(2) A Federal credit union may make purchases in accordance with this paragraph (b), provided:

(i) The board of directors or investment committee approves the purchase;

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the purchasers office; and

(iii) For purchases under paragraph (b)(1)(ii) of this section, any advance written approval required by § 741.8 of this chapter is obtained before consummation of such purchase.

(3) The aggregate of the unpaid balance of eligible obligations purchased under paragraph (b) of this section shall not exceed 5 percent of the unimpaired capital and surplus of the purchaser. The following can be excluded in calculating this 5 percent limitation:

(i) Student loans purchased in accordance with paragraph (b)(1)(iii) of this section;

(ii) Real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section;

(iii) Eligible obligations purchased in accordance with paragraph (b)(1)(i) of this section that are refinanced by the purchaser so that it is a loan it is empowered to grant;

(iv) An indirect lending or indirect leasing arrangement that is classified as a loan and not the purchase of an eligible obligation because the Federal credit union makes the final underwriting decision and the sales or lease contract is assigned to the Federal credit union very soon after it is signed by the member and the dealer or leasing company.

(c) *Sale.* A Federal credit union may sell, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with paragraph (b)(1)(ii) of this section, student loans purchased in accordance with paragraph (b)(1)(iii) of this section, and real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section, within the limitations of the board of directors' written sale policies, *Provided*:

(1) The board of directors or investment committee approves the sale; and

(2) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office.

(d) *Pledge.* (1) A Federal credit union may pledge, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with paragraph (b)(1)(ii) of this section, student loans purchased in accordance with paragraph (b)(1)(iii)

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of this section, and real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section, within the limitations of the board of directors' written pledge policies, *Provided*:

(i) The board of directors or investment committee approves the pledge;

(ii) Copies of the original loan documents are retained; and

(iii) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligations.

(2) The pledge agreement shall identify the eligible obligations covered by the agreement.

(e) *Servicing*. A Federal credit union may agree to service any eligible obligation it purchases or sells in whole or in part.

(f) *10 Percent limitation*. The total indebtedness owing to any Federal credit union by any person, inclusive of retained and reacquired interests, shall not exceed 10 percent of its unimpaired capital and surplus.

[44 FR 27071, May 9, 1979, as amended at 46 FR 38680, July 29, 1981. Redesignated at 49 FR 30688, Aug. 1, 1984, and amended at 53 FR 4844, Feb. 18, 1988; 56 FR 15036, Apr. 15, 1991; 56 FR 35811, July 29, 1991; 60 FR 58504, Nov. 28, 1995; 63 FR 70998, Dec. 23, 1998]

### § 701.24 Refund of interest.

(a) The board of directors of a Federal credit union may authorize an interest refund to members who paid interest to the credit union during any dividend period and who are members of record at the close of business on the last day of such dividend period. Interest refunds may be made for a dividend period only if dividends on share accounts have been declared and paid for that period.

(b) The amount of interest refund to each member shall be determined as a percentage of the interest paid by the member. Such percentage may vary according to the type of extension of credit and the interest rate charged.

(c) The board of directors may exclude from an interest refund:

(1) A particular type of extension of credit;

(2) Any extension of credit made at a particular interest rate; and

(3) Any extension of credit that is presently delinquent or has been delin-

quent within the period for which the refund is being made.

[53 FR 19747, May 31, 1988]

### § 701.25 Charitable contributions and donations.

(a) A federal credit union may make charitable contributions and/or donate funds to recipients not organized for profit that are located in or conduct activities in a community in which the federal credit union has a place of business or to organizations that are tax exempt organizations under Section 501(c)(3) of the Internal Revenue Code and operate primarily to promote and develop credit unions.

(b) The board of directors must approve charitable contributions and/or donations, and the approval must be based on a determination by the board of directors that the contributions and/or donations are in the best interests of the federal credit union and are reasonable given the size and financial condition of the federal credit union. The board of directors, if it chooses, may establish a budget for charitable contributions and/or donations and authorize appropriate officials of the federal credit union to select recipients and disburse budgeted funds among those recipients.

[64 FR 19443, Apr. 21, 1999]

### § 701.26 Credit union service contracts.

A Federal credit union may act as a representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Agreements must be in writing, and shall advise all parties subject to the agreement that the goods and services provided shall be subject to examination by the NCUA Board to the extent permitted by law.

[47 FR 30462, July 14, 1982, as amended at 63 FR 10756, Mar. 5, 1998]